



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,275	07/18/2003	Tilak M. Shah	4179-123	4204

23448 7590 12/15/2005

INTELLECTUAL PROPERTY / TECHNOLOGY LAW  
PO BOX 14329  
RESEARCH TRIANGLE PARK, NC 27709

EXAMINER

WILLIAMS, CATHERINE SERKE

ART UNIT PAPER NUMBER

3763

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

e

<b>Office Action Summary</b>	Application No. 10/622,275	Applicant(s) SHAH, TILAK M.	
	Examiner Catherine S. Williams	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.  
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-51 is/are pending in the application.  
 4a) Of the above claim(s) 16-28, 40-42, 45-49 and 51 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-15, 29-39, 43, 44 and 50 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/25/05; 1/14/05; 6/14/05; 8/18/05</u> | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Species I in the reply filed on 10/23/05 is acknowledged. The traversal is on the ground(s) that each species has common features. This is not found persuasive because an election of species is based on features of each species that are different and amount to a distinction that would make them patentably distinct. In this case, species II has a drainage irrigation conduit that extends through the catheter and balloons. This feature is not present in species I and is considered distinct. Species III has a distinct inflation medium protocol which is not present in species I.

The requirement is still deemed proper and is therefore made FINAL.

Claims 16-28,40-42,45-49 and 51 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/23/05.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4,6,9,12-15,29-32,34-35 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Stambaugh (USPN 6,136,011). Stambaugh discloses a double balloon catheter.

Art Unit: 3763

The balloons are concentric. Two non-concentric inflation lumens extend from the proximal end of the catheter to the balloons. See figure 2.

Claims 1-5,8,10,12-14,29-33,36 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Fogarty (USPN 4,338,942). Fogarty discloses a double balloon catheter. The balloons are concentric. Two concentric inflation lumens extend from the proximal end of the catheter to the balloons. See figures 2,4.

Claims 1-4,6-8,12-14,29-32,34-36,43-44, and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Diederich et al (USPN 6,746,465). Diederich discloses a double balloon catheter. The balloons are concentric. Two non-concentric inflation lumens extend from the proximal end of the catheter to the balloons. See figure 8.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stambaugh, Fogarty or Diederich et al in view of Wang et al (USPN 5,512,051). Stambaugh, Fogarty and Diederich each independently meet the claim limitations as described above but each fail to teach a friction reducing coating between the balloons.

Art Unit: 3763

However, Wang teaches such a friction reducing coating. The coating aids in the inflation/deflation of the balloons.

At the time of the invention, it would have been obvious by one skilled in the art to incorporate the friction reducing coating as taught by Wang into either or all of Stambaugh, Fogarty or Diederich. The motivation for the incorporate is provided by Wang in that the coating enhances the inflation/deflation ability of the balloons. One skilled in the art would recognize the advantage of the coating in order to make the device easier for a physician to use during a procedure.

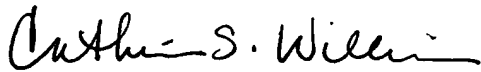
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine S. Williams whose telephone number is 571-272-4970. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Catherine S. Williams

December 10, 2005